



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NO DETERMINATIONS - Cincinnati
DATE: 7/2/2002

Date: JUL 19 2002

SURNAME
Contact Person:

Identification Number:

Telephone Number:

INTERNAL REVENUE SERVICE
CINCINNATI, OHIO

OCT 29 2002

Employer Identification Number

RECEIVED
TEGE DIVISION

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

We have considered the information you have submitted and have concluded you do not qualify for recognition of exemption under section 501(c)(3) of the Code because you are not operating exclusively for exempt purposes.

You were established for general charitable purposes, to include the taking of actions designed to charitably benefit the [REDACTED] and enhance educational opportunities for the residents of [REDACTED]

In order to carry out your stated purposes, your sole current activity is to promote the [REDACTED]

[REDACTED] You have represented that if [REDACTED] You have represented that historically the [REDACTED]

In addition, [REDACTED]

You have indicated that none of your officers or directors serve as members of your governing body by reason of being public officials or being appointed by public officials. Nor have you submitted any information indicating that the City has an interest in your program.

Section 501(c)(3) of the Code describes organizations organized and operated exclusively for religious, charitable and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

[REDACTED]

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes specified in that section. If an organization does not meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. It includes relief of the poor and distressed, the advancement of religion, the advancement of education and operating to lessen the burdens of government.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), Ct.D. 1650, C.B. 1945, 375, the Supreme Court of the United States held that the presence of a nonexempt purpose, if more than insubstantial, would destroy tax exempt status as a charitable organization.

In United States v. Wells Fargo Bank, 485 U.S. 351, 108 S. Ct. 1179, 99 L.Ed. 2d 368 (1988), the Supreme Court held that an organization must prove unambiguously that it qualifies for a tax exemption.

Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), holds that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact.

Rev. Rul. 85-1, 1985-1 C.B. 177, sets out a two-part test for determining whether an organization's activities lessen the burdens of government. First, it is necessary to determine whether the governmental unit considers the organization's activities to be its burden. The second part of the test is whether these activities actually lessen the burdens of the government. An activity is a burden of government if there is an objective manifestation by the governmental unit that it considers the activities of the organization to be its burden. The interrelationship between the governmental unit and the organization may provide evidence that the governmental unit considers the activity to be its burden. Whether the organization is actually lessening the burdens of government is determined by considering all relevant facts and circumstances.

Rev. Rul. 85-2, 1985-1 C.B. 178, holds that an organization that provides legal assistance to guardians ad litem who represent abused and neglected children before a juvenile court that requires their appointment lessens the burdens of government and, therefore, qualifies for exemption under section 501(c)(3) of the Code. The determination of whether an organization's activities actually lessen the burdens of government is based on all the relevant

[REDACTED]
[REDACTED]
facts and circumstances.

It is incumbent upon an organization seeking a ruling recognizing its tax exempt status to establish that it will satisfy the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact. See Harding Hospital, Inc. v. United States, supra. In addition, the existence of more than a substantial nonexempt purpose will preclude exemption. See Better Business Bureau of Washington, D.C., Inc. v. United States, supra. As emphasized by the Supreme Court in United States v. Wells Fargo Bank, supra, qualification for exemption must be proven unambiguously.

In order to qualify for exemption under section 501(c)(3) of the Code, you must establish that you are organized and operated exclusively for religious, charitable, or educational purposes and that no part of your net earnings inure to the benefit of a private individual or shareholder.

The information you have submitted indicates that you had not engaged in any charitable giving program or engaged in any other charitable activities during the tax period up to the date you filed your application. Furthermore, trying to attract the [REDACTED] does not currently accomplish a charitable or educational goal. [REDACTED] is not an educational or charitable endeavor; therefore [REDACTED] does not accomplish a charitable or educational 501(c)(3) purpose.

We recognize that the city will get some financial [REDACTED]. Furthermore, you have indicated that historically the [REDACTED]. However, any such charitable or educational projects are merely hypothetical and if they even exist, are far in the future and do not establish that you are currently engaging in any charitable or educational programs.

In addition, you have not presented any information which indicates that the [REDACTED]. Nor have you shown that City is actively involved in your program. In fact, the City has not appointed a single member to your board of directors nor does it have a representative serving as an officer of your organization. Accordingly, we have concluded that you have not established that you are operating in a manner so as to relieve a burden of the local government.

Based upon the above, we have concluded that you do not qualify for recognition of exemption under section 501(c)(3) because more than an insubstantial part of your activities do not further a charitable or educational endeavor.

Contributions to you are not deductible under section 170 of the Code and you are required to file Federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to

[REDACTED]
[REDACTED]

be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

Sincerely yours,

[REDACTED]
[REDACTED]
[REDACTED]